

**STATE OF CALIFORNIA
DEPARTMENT OF INSURANCE
300 Capitol Mall, Suite 1700
Sacramento, California 95814**

**File No. ER02020654
April 10, 2002**

SUBJECT: ORGANIZED AUTOMOBILE INSURANCE FRAUD ASSESSMENT

INITIAL STATEMENT OF REASONS

The Insurance Commissioner of the State of California (Commissioner) proposes to amend section 2698.73 of Article 5, Subchapter 9, of Chapter 5 Title 10 of the California Code of Regulations (CCR) regarding the assessment for the funding of organized automobile insurance fraud. The purpose of the proposed adoption is to implement, interpret and make specific the provisions of the California Insurance Code (CIC) section 1874.8 and 1874.81 requiring the Commissioner to distribute to California District Attorney's certain funds assessed from automobile insurers to fund investigation and prosecution of organized automobile insurance fraud.

DESCRIPTION OF THE PUBLIC PROBLEM

The Insurance Commissioner of the State of California (Commissioner) proposes to amend Subchapter 9, article 5, section 2698.73, Title 10, Chapter 5 of the California Code of Regulations (CCR) regarding the program for investigation and prosecution of organized automobile fraud. The purpose of the proposed amendment is to implement, interpret and make specific the provisions of the California Insurance Code (CIC) sections 1874.8 and 1874.81 which require the Commissioner to assess and distribute certain funds to California district attorneys for the purpose of prosecuting organized automobile fraud cases.

AB 1050, Chapter 885, Statutes of 1999, was signed by the Governor on October 9, 1999 creating the Organized Crime Prevention and Victim Protection Act of 1999. AB 1050, inter alia, added CIC 1874.8 and 1874.81 as well modifying existing CIC section 1872.8. In adopting AB 1050, the Legislature made the following findings and declaration of purpose:

Section 1. (a) This act shall be known as the Organized Crime Prevention and Victim Prevention Act of 1999.

“(b) The Legislature finds that organized automobile fraud activity operating in the major urban centers of the state represents a significant portion of all individual fraud-related automobile insurance cases. These cases result in artificially higher insurance premiums for core urban areas and low-income areas of the state than for other areas of the state. Only a focused, coordinated effort by all appropriate agencies and organizations can effectively deal with this problem.”

CIC section 12921 requires the Commissioner to enforce the provisions of the Insurance Code and other laws regulating the business of insurance in the State of California. CIC section 1874.8, requires the Commissioner to establish an annual assessment on each automobile for which a policy of insurance has been issued in order to fund the activity of the Commissioner, the California Highway Patrol and from 3 to 10 county District Attorney's Offices.

The proposed amendments are necessary to implement, interpret and make specific the provisions of CIC sections 1872.8, 1874.8 and 1874.81 and title 10, California Code of Regulations sections 2698.70 and 2698.71. The proposed action would amend the existing provisions to provide authority for a grantee to carry-over a percentage of grant funds from one funding cycle to another funding cycle due to a related carry-over of an investigation or prosecution or on submission of justification made to and approval by the Commissioner.

STATEMENT OF SPECIFIC PURPOSE

The specific purpose of each adoption, and the rationale for the determination that each adoption is reasonably necessary to carry out the purpose for which it is proposed, together with a description of the public problem, administrative requirement, or other condition or circumstance that each adoption is intended to address, is as follows:

Section 2698.73

Deletes certain existing text concerning carry-over of funds by grantees and adds text to the CCR referencing a methodology for permitting carry-over of funds under certain conditions and in certain instances.

Rational for Necessity

The proposed amendment would conform the provisions of this program to and provide consistency with the provisions of another similar, but distinct program, under the Automobile Insurance Fraud Program under section 2698.64, title 10, California Code of Regulations.

IDENTIFICATION OF STUDIES

The Commissioner has not relied on any technical, theoretical, or empirical study or report, or similar document, proposing the adoption of these regulations.

SPECIFIC TECHNOLOGIES OR EQUIPMENT

Adoption of this regulation as proposed would not mandate the use of specific technologies or equipment.

ALTERNATIVES

These regulations are being amended to make more specific and clear both the provisions of the enabling statute and existing regulatory scheme as well as to conform the provisions of this assessment program to a related but distinct existing assessment program. No other alternatives are considered available to accomplish these goals.

CALIFORNIA DEPARTMENT OF INSURANCE

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